

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

AGREED MOTION TO APPROVE TRIAL POOL

In accordance with the Agreed Protocol for the Selection of Plaintiffs for a Discovery Pool, Trial Pool, and Trial (DE 1099), Plaintiffs, through Co-Lead Counsel, and Defendants Intercontinental Terminals Company LLC, NSK Corporation, and NSK Ltd. (collectively, “Defendants” and, with Plaintiffs, the “Parties”) file this agreed motion to approve the trial pool jointly selected by the Parties.

Consistent with the Court’s case management orders, the Parties have been focused on conducting discovery directed toward the Plaintiffs selected for inclusion in the bellwether discovery pool over the last several months. Based on those efforts, the Parties have jointly selected the following trial pool:

1. Faridah Davis
 2. Jean Carlo DeLeon

3. Mark Hubert
4. Elizabeth Lizama
5. Francisco Macias
6. Jason Minton
7. Marcia Mitchell
8. Detrek Montgomery
9. Eleazar Perez
10. Manuela Torres

As set out in the Parties' Agreed Motion to Approve Bellwether Discovery Pool (DE 1112), the discovery pool initially consisted of 27 individual and 2 commercial Plaintiffs, asserting claims that were representative of those asserted in the broader litigation. On the individual side, the Parties focused on certain key characteristics in selecting the discovery pool: age, alleged exposure location, nature of claims asserted, and for personal injury claims, nature of alleged injury and extent of medical treatment. *Id.* at 7-9. The characteristics that made the discovery pool representative remain present in the trial pool both from a demographic and claim perspective.

While there are no commercial cases selected for inclusion in the trial pool, the Parties believe that focusing on individual claims for this first phase of bellwether trials is the best approach to "further the overall objectives of the consolidated proceeding," given the prevalence of these claims. DE 1099 at 4. As explained in the Parties' Agreed Motion to Approve Bellwether Discovery Pool (DE 1112), the commercial cases are both much fewer in number and more varied in nature. As a result, the Parties do not believe that

focusing on the commercial cases is the most productive way to progress this consolidated proceeding at this stage. In contrast, continued discovery, expert work, motion practice, and if necessary, trial with respect to the individual claims selected for inclusion in the trial pool will allow the Parties to gain valuable information about the types of claims that overwhelmingly comprise this consolidated proceeding (and that are subject to the Parties' tolling agreement).

For the foregoing reasons, the Parties respectfully request that the Court approve their proposed trial pool.

Dated: January 24, 2023

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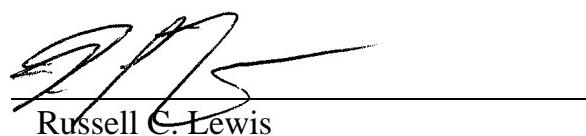
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CERTIFICATE OF SERVICE

I certify that on January 24, 2023, a copy of this document has been served on all counsel of record in the above-captioned cases via the Court's electronic filing system.



Russell C. Lewis